

REMARKS

Applicant has carefully reviewed the final office action mailed January 17, 2006 and offers the following remarks that overcome the rejections.

Claims 1-10, 14-29, 32-37, and 39-42 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ash et al. (hereinafter "Ash") in view of Kinnunen. Applicant respectfully traverses. The new reference of Kinnunen (U.S. Patent App. Pub. No. 2002/0051456, hereinafter "Kinnunen") presented by the Patent Office to combine with previously presented reference Ash (U.S. Patent No. 4,669,113) still does not establish *prima facie* obviousness, because claimed limitations are still not taught or suggested by the references. MPEP § 2143.03. In light of Kinnunen being a newly cited reference, Applicant respectfully requests the Patent Office withdraw the finality of this action.

The Patent Office previously rejected claims 1-10, 14-29, 32-37, and 39-42 based on primary reference Ash in the last office action mailed on July 28, 2005. Applicant overcame this rejection, because the claims require that if congestion of a trunk exceeds a first threshold, new connections are prevented from being established on the trunk based on whether the new connections are voice or data connections. Ash does not teach or suggest this limitation, as acknowledged by the Patent Office in the final office action mailed on January 17, 2006 (p. 3, ll. 12-15).

Kinnunen does not cure the deficiency in Ash. Kinnunen does not teach or suggest preventing new connections based on whether the new connections are voice or data connections. As noted by the Patent Office, Kinnunen does state that a new connection can be rejected based on the bandwidth of the request. (Kinnunen, ¶ 0016). However, rejecting (i.e. preventing) a new connection on bandwidth does not teach or suggest the claimed limitation of preventing a new connection based on whether the connection is voice or data. The Patent Office provides the following rationale to support the conclusion in the final office action mailed on January 17, 2006:

"[V]oice connections are prevented and data connections are accepted since in voice connection, information content is spread over a wider bandwidth than in data connection the package can be broken into segments and reassembled at the destination." (p. 4, ll. 7-10)

The above rationale does not have a basis in fact and thus cannot be used to support the present rejection for the following reasons. Contrary to the Patent Office's suggestion, higher bandwidth connection requests are not synonymous with data or voice type connection requests. Thus, one of ordinary skill in the art will not read Kinnunen's bandwidth based decisioning as teaching or suggesting a voice and data based decisioning. The decision to route or connect based on bandwidth could easily apply to both voice or data traffic. In particular, the prior art systems will work and function the same way when the traffic is all data, is all voice, or a combination of the two. Different bandwidth requirements may be associated with different data streams. The present invention takes into consideration the relative urgency associated with delivery of voice and data traffic. Given the real-time nature of voice traffic, voice traffic may be deemed more important than data traffic, which may not be delay sensitive. Alternatively, some service providers may want to give data traffic priority over voice traffic on some links. These decisions may be based on priority, service agreements, required quality of service levels, and the like – in addition to capacity or bandwidth. As such, lower bandwidth data traffic may be selected over higher bandwidth voice traffic. Notably, voice traffic may not require the bandwidth of the data traffic, especially if the data traffic is streaming data associated with audio or video signals.

The prior art simply looks at capacity and makes a decision regardless of the traffic type – a perfectly acceptable solution. The present invention provides yet another solution, which will allow service providers to make routing decisions based on the relative transmission urgency associated with the traffic or service agreements in addition to or in lieu of capacity. In essence, the present invention could be an added feature to the prior art solutions, and as such, is not taught or suggested by the prior art. As such, routing decisions based on capacity and bandwidth requirements are different from those based on traffic type. Routing decisions based on traffic type are not inherent to those based on capacity and bandwidth.

Thus, for the preceding reasons, the rejection of claims 1-10, 14-29, 32-37, and 39-42 must be withdrawn.

Claims 11-13, 30, 31, 38, and 43-46 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ash in view of Kinnunen, and further in view of Ackcrley et al. (hereinafter "Ackcrley"). Applicant respectfully traverses. As discussed above, all claims of the present invention require the limitation of preventing new connections from being established on the

trunk based on whether the new connections are voice or data connections. As discussed above, neither Ash nor Kinnunen teach or suggest this limitation. Ackerly does not cure this deficiency. Thus, this rejection must be withdrawn as well.

Applicant respectfully requests consideration of the rejections in light of the remarks presented herein. Applicant would welcome a telephone interview to further discuss the rejections if necessary. Applicant earnestly solicits claim allowance at the earliest convenience.

Respectfully submitted,

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